

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OHIO
EASTERN DIVISION**

KATRINA SCOTT,

Plaintiff,

v.

TENDON MANUFACTURING, INC.,

Defendant.

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Case No.

JUDGE

DEFENDANT’S NOTICE OF REMOVAL OF CIVIL ACTION TO FEDERAL COURT

PLEASE TAKE NOTICE THAT Defendant Tendon Manufacturing, Inc. (“Defendant”), by and through undersigned counsel, hereby removes this action from the Cuyahoga County Court of Common Pleas to the United States District Court for the Northern District of Ohio, Eastern Division. This removal is based on federal question jurisdiction pursuant to 28 U.S.C. §§ 1331, 1441(a), and 1446. In support of the removal of this action, Defendant alleges as follows:

1. On or about June 21, 2021, Plaintiff Katrina Scott (“Plaintiff”) filed a Complaint in the Cuyahoga County Court of Common Pleas against Defendant captioned *Katrina Scott v. Tendon Manufacturing, Inc.*, Case No. CV-21-949017 (“State Court Action”). A true and correct copy of the Summons and Complaint are attached as Exhibit A to the Declaration of Christian D. McFarland (“McFarland Decl.”), attached hereto as Exhibit 1.

2. On or about June 28, 2021, the Summons and Complaint were served on Defendant. (See McFarland Decl., Exhibit A). Accordingly, this Notice of Removal has been timely filed within the 30-day time period required under 28 U.S.C. § 1446(b).

3. Aside from the Complaint, no other pleadings have been filed by Plaintiff in the State Court Action, nor have there been any pleadings filed by Defendant in the State Court Action.

(See McFarland Decl. at Exhibit B, Docket of State Court Action). Furthermore, to the best of Defendant's knowledge, no other proceedings have been conducted or scheduled in the State Court Action. Accordingly, by attaching the Complaint to this Notice of Removal, the requirements of 28 U.S.C. §1446(a) have been met.

4. Pursuant to 28 U.S.C. § 1441(a), venue of this action exists in this District Court because the Cuyahoga County Court of Common Pleas is located within the Northern District of Ohio, Eastern Division.

5. This is an action of a civil nature in which the district courts of the United States have been given original jurisdiction. Indeed, the action arises under the laws of the United States and invokes the federal question jurisdiction of this Court as provided in 28 U.S.C. §§1331 and 1441(a). More specifically, in Counts I and II of Plaintiff's Complaint, Plaintiff alleges that Defendant violated the Family and Medical Leave Act ("FMLA"), 29 U.S.C. § 2601, *et seq.* (Complaint Counts I-II, ¶¶ 5-14).

6. Plaintiff specifically alleges that Defendant "failed to perform" its obligations under the FMLA, including "notify[ing] employees of their rights and obligations under the FMLA" and "maintain[ing] Plaintiff's health insurance [] while under FMLA leave," and that "Defendant's termination of the Plaintiff is in violation of the FMLA." (Complaint ¶¶ 7-9, 12-13).

7. Thus, on its face, Plaintiff's Complaint asserts claims under the laws of the United States (the FMLA). As a result, this Court has original jurisdiction over this case pursuant to 28 U.S.C. § 1331.

8. Accordingly, this action may be removed to this Court pursuant to original jurisdiction under 28 U.S.C. §§ 1331, 1441, and 1446.

9. As required by 28 U.S.C. §1446(d), Defendant provided written notice of the filing of this Notice of Removal to Murray Richelson, counsel of record for Plaintiff, and will promptly file a copy of this Notice of Removal with the Clerk for the Cuyahoga County Court of Common Pleas. A copy of Defendant's Notice of Filing Notice of Removal of Civil Action to United States District Court is attached hereto. (*See Exhibit C to McFarland Decl.*)

10. By filing the Notice of Removal, Defendant does not waive any objections it may have as to service, jurisdiction, or venue, or any other defenses available to it at law, in equity, or otherwise. Defendant intends no admission of fact or law by this Notice and expressly reserves all defenses and motions.

WHEREFORE, pursuant to 28 U.S.C. §§ 1331, 1441(a), and 1446, Defendant respectfully removes this case from the Cuyahoga County Court of Common Pleas to the United States District Court for the Northern District of Ohio.

Respectfully submitted,

/s/ James P. Smith

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TENDON MANUFACTURING, INC.

CERTIFICATE OF SERVICE

I hereby certify that, on July 21, 2021, a copy of the foregoing *Notice of Removal of Civil Action to the United States District Court* was filed electronically. Notice of this filing will be sent to all parties by operation of the Court's electronic filing system. Additionally, a copy of the foregoing has been served upon counsel of record for Plaintiff, Murray Richelson, via email delivery at murray@dmklegal.com on July 21, 2021.

/s/ James P. Smith

James P. Smith

One of the Attorneys for Defendant,
TENDON MANUFACTURING, INC.